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CRAIG D. BLOOM
JOSHUA A. BOXER

May 17, 2013

HARVEY Z. WERBLOWSKY
OF COUNSEL

Via Electronic Case Filing

Chief Judge Carla E. Craig
U.S. Bankruptcy Court, EDNY
Conrad B. Duberstein Courthouse
271 Cadman Plaza East - Suite 1595
Brooklyn, NY 11201-1800

Re: In re: 89 Ralph Avenue Realty Corp., Debtor, Chapter 7, Case No. 12-48522-cec

Dear Judge Craig:

We are the attorneys for the petitioning creditor, 1st Bridge, LLC ("1st Bridge"), in the above-referenced involuntary bankruptcy proceeding of 89 Ralph Avenue Realty Corp. (the "Debtor"). This matter is scheduled for an evidentiary hearing on the Debtor's motion to vacate the Order for Relief on Monday, May 20, 2013 at 10:00 a.m. Your Honor had requested that the parties file a Joint Pre-Trial Order by Noon, today, May 17, 2013.

On May 8, 2013, I sent Debtor's counsel, Ms. Felton, a draft Joint Pre-Trial Order for her review, revision and comment (the Joint Pre-Trial Order was previously due to be filed on May 10, 2013, but was adjourned as a result of the adjournment of the evidentiary hearing at the Debtor's request) (*see* Attachment A).

Having not received any comments to the May 8 draft Pre-Trial Order, on May 15, 2013, I asked Ms. Felton to send me her revisions/proposals by the close of business on Thursday, May 16, 2013, so that the Joint Pre-Trial Order could be finalized and filed by the Noon deadline today (*see* Attachment B). As of the time of the filing of this letter, I have not received any comments, proposals, drafts, or communications from Debtor's counsel regarding the Joint Pre-Trial Order. Therefore, we will shortly be filing a proposed Pre-Trial Order on behalf of Petitioning Creditor only (*see* Attachment C).

Thank you for your attention to this matter.

Respectfully submitted,

s/ Craig D. Bloom

Craig D. Bloom

CDB:bt
Enclosures
cc: Regina Felton, Esq. (*Via Email and ECF*)

ATTACHMENT A

Craig Bloom

From: Craig Bloom
Sent: Wednesday, May 08, 2013 2:00 PM
To: rfeltonesq@optimum.net
Cc: MBrofman@WeissZarett.com
Subject: 89 Ralph Avenue Realty Corp. | Draft Joint Pre-Trial Order
Attachments: Draft Joint Pre-Trial Order 5.8.13.pdf; Joint Pre-Trial Order v.2.doc

Dear Ms. Felton:

Attached is a pdf and Word version of a draft Joint Pre-Trial Order. As you know, the Joint Pre-Trial Order has to be completed, signed and filed with the Court by the close of business Friday (May 10, 2013). We have taken the liberty of preparing the first draft for your review, revision and comment. Please get back to me with your additions/comments as quickly as possible, so that the Joint Pre-Trial Order can be timely filed with the Court.

I will be sending you a separate email with Petitioning Creditor's exhibits shortly. Please send me the Debtor's exhibits.

Regards,

Craig D. Bloom, Esq.
Weiss, Zarett, Brofman & Sonnenklar, P.C.
f/k/a Weiss & Zarett, P.C.
3333 New Hyde Park Road, Suite 211
New Hyde Park, New York 11042
Phone: 516-627-7000
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Website: www.weisszarett.com

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WZBS Draft 5.8.13

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

89 RALPH AVENUE REALTY CORP.,

Debtor.

Chapter 7

Case No. 12-48522-cec

-----X

JOINT PRE-TRIAL ORDER

TO THE HONORABLE CARLA E. CRAIG,
UNITED STATES BANKRUPTCY JUDGE:

The parties having conferred among themselves and with the Court pursuant to
Bankruptcy Rule 7016,

NOW, THEREFORE, the following statements, directions and agreements are
adopted as the Pre-Trial Order herein:

1. Nature of the Case. 1st Bridge, LLC ("1st Bridge" or "Petitioning Creditor")
commenced this chapter 7 case by the filing of the Involuntary Petition against 89 Ralph Avenue
Realty Corp. (the "Debtor") on December 18, 2012 (the "Petition Date"). The Debtor failed to
timely answer and an Order for Relief was entered on January 18, 2013 (the "Order for Relief").
On February 5, 2013, the Debtor moved to dismiss this bankruptcy proceeding for lack of
jurisdiction (the "Debtor's Motion"), as a result of the alleged failure of Petitioning Creditor to
properly serve the Summons and Involuntary Petition on the Debtor. Petitioning Creditor
opposed the Debtor's Motion by opposition dated February 12, 2013. On February 21, 2013, the

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Court held a hearing on the Debtor's Motion. During the hearing, the Court directed that the Debtor's Motion would be treated as a motion to vacate the Order for Relief and ordered an evidentiary hearing.

2. Jurisdiction – Venue. This proceeding was brought under 11 U.S.C. §303. This Court has jurisdiction under 28 U.S.C. §157. This is a “core proceeding” as defined in 28 U.S.C. §157(a)(2).

3. Relief Prayed. The Debtor is seeking to vacate the Order for Relief.

4. Undisputed Facts.

- a. Petitioning Creditor commenced this chapter 7 case by the filing of an involuntary bankruptcy petition (the “Involuntary Petition”) against the Debtor on December 18, 2012 (the “Petition Date”).
- b. A Summons was issued by the Clerk of the Bankruptcy Court on December 19, 2012, pursuant Bankruptcy Rule 1010.
- c. After the Debtor failed to timely respond to the Summons and Involuntary Petition, pursuant to Local Rule 1013-1, the Bankruptcy Court issued the Order for Relief on January 18, 2013.

5. Petitioning Creditor's Contentions of Fact.

- a. The Summons and Involuntary Petition were timely served on the Debtor by Petitioning Creditor's counsel's legal secretary Linda Gottsegen, under the supervision of Craig D. Bloom, Esq., pursuant to Bankruptcy Rules 1010 and 7004(b)(3), by sending the Debtor the Summons and Involuntary Petition by First Class Mail to the following two addresses: (i) 89 Ralph Avenue Realty Corp., 1401 Dean Street, Brooklyn, NY 11216, Attn: Henrietta Miller; and (ii) 89 Ralph Avenue Realty Corp., 89 Ralph Avenue, Brooklyn, NY 11221, Attn: Henrietta Miller.
- b. The First Class Mailings were never returned by the Post Office.

6. Debtor's Contentions of Fact.

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a. **[TO BE ADDED BY DEBTOR’S COUNSEL]**

7. Issues of Law.

- a. Is there competent evidence submitted by the Debtor sufficient to refute the strong presumption of receipt, or the common law “mailbox rule” which states that a properly addressed envelope not returned to sender is presumed to have reached its destination at the regular time and receipt by the person to whom it was addressed?
- b. Are the affidavits of Linda Gottsegen sufficient to provide evidence of actual mailing of the Summons and Involuntary Petition?

8. Witnesses.

- a. Debtor’s Witnesses
 - i. **[TO BE ADDED BY DEBTOR’S COUNSEL]**
- b. Petitioning Creditor’s Witnesses
 - i. Linda Gottsegen
 - ii. Craig D. Bloom, Esq.

9. Exhibits.

- a. Exhibits stipulated to be admissible
 - i. Exhibit 1 - Involuntary Petition dated December 18, 2012
 - ii. Exhibit 2 - Summons to Debtor in Involuntary Case dated December 19, 2012
 - iii. Exhibit 3 - Order for Relief dated January 18, 2013
- b. Debtor’s proposed additional exhibits
 - i. **[TO BE ADDED BY DEBTOR’S COUNSEL]**

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c. Petitioning Creditor's proposed additional exhibits

- i. Exhibit 4 - Affidavit of Service by Linda Gottsegen dated December 20, 2012
- ii. Exhibit 5 - Declaration of Craig D. Bloom dated February 12, 2013
- iii. Exhibit 6 - Supplemental Affidavit of Linda Gottsegen dated April 22, 2013
- iv. Exhibit 7 - Petitioning Creditor's Request for Admissions to Debtor dated April 3, 2013 (with proof of service)

10. Requested Evidentiary Rulings.

11. Trial Counsel.

a. For Debtor:

Regina Felton, Esq.
Felton & Associates
1371 Fulton Street
Brooklyn, NY 11216

b. For Petitioning Creditor:

Michael D. Brofman, Esq.
Weiss, Zarett, Brofman & Sonnenklar, P.C.
f/k/a Weiss & Zarett, P.C.
3333 New Hyde Park Road, Suite 211
New Hyde Park, N.Y. 11042

12. Estimate of Trial Time. One-half day

13. Trial Date. May 14, 2013.

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IS FURTHER ORDERED that the Court may in order to prevent manifest injustice or for good cause shown, at the trial of the action or prior thereto upon application of counsel for either party, made in good faith, or upon motion of the Court, modify this Pre-Trial Order upon such conditions as the Court may deem just and proper.

Dated: Brooklyn, New York
May __, 2013

FELTON & ASSOCIATES
Attorneys for Debtor

By: _____
Regina Felton, Esq.
Felton & Associates
1371 Fulton Street
Brooklyn, NY 11216

Dated: New Hyde Park, New York
May __, 2013

WEISS, ZARETT,
BROFMAN & SONNENKLAR, P.C.
f/k/a WEISS & ZARETT, P.C.
Attorneys for Petitioning Creditor 1st Bridge, LLC

By: _____
Michael D. Brofman
3333 New Hyde Park Road, Suite 211
New Hyde Park, N.Y. 11042

WZBS Draft 5.8.13

(516) 627-7000

Dated: Brooklyn, New York
May 10, 2013

CARLA E. CRAIG
Chief United States Bankruptcy Judge

ATTACHMENT B

Craig Bloom

From: Craig Bloom
Sent: Wednesday, May 15, 2013 4:32 PM
To: 'Regina Felton'
Cc: MBrofman@WeissZarett.com
Subject: RE: In re: 89 Ralph Avenue Corp., 12-48522

Ms. Felton:

As we discussed, please send over your revisions/proposals for the Joint Pre-Trial Order by the close of business tomorrow, so that we can finalize it with you on Friday morning and file it with the Court by Noon (as requested by the Court).

Also, if you intend on reading portions of Mr. Teitel's deposition into the record on Monday, please provide us with a copy of the complete transcript and the portions which you intend to read by Noon on Friday, so that we have an opportunity to counter-designate our own portions of the transcript as well. Please note that Petitioning Creditor reserves all rights to object to the admissibility of Mr. Teitel's deposition (in whole and in part).

Regards,

Craig D. Bloom, Esq.
Weiss, Zarett, Brofman & Sonnenklar, P.C.
3333 New Hyde Park Road, Suite 211
New Hyde Park, New York 11042
Phone: 516-627-7000
Fax: 516-877-1172
Email: cbloom@weisszarett.com
Website: www.weisszarett.com

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-----Original Message-----

From: Regina Felton [mailto:rfeltonesq@optimum.net]
Sent: Tuesday, May 14, 2013 8:23 AM
To: Craig Bloom
Subject: RE: In re: 89 Ralph Avenue Corp., 12-48522

Good Morning:

This confirms, that I will be appearing at your offices on this date at

2:00 pm. to take the testimony of Linda Gottsengen. This also confirms that tomorrow I will be taking the testimony of Jeffrey Teitel at 90 State Street, Ste. 1500, 15th Flr., Albany, NY, at 10 am.

Regina Felton

On Fri, May 10, 2013 at 3:01 PM, Craig Bloom wrote:

> Ms. Felton: This confirms our discussion yesterday during which we
> agreed that you will conduct Ms. Gottsegen's deposition at my office
> at 2pm on Tuesday May 14.
> Do you have a time and location for Mr. Teitel's deposition on
> Wednesday? Thank you.
>
> Craig D. Bloom, Esq.
> Weiss, Zarett, Brofman & Sonnenklar, P.C.
> f/k/a Weiss & Zarett, P.C.
> 3333 New Hyde Park Road, Suite 211
> New Hyde Park, New York 11042
> Phone: 516-627-7000
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> (ii) promoting, marketing or recommending the tax advice addressed
> herein to any other party.
>
>
> -----Original Message-----
> From: Craig Bloom Sent: Thursday, May 09, 2013 4:58 PM
> To: 'Regina Felton'
> Cc: MBrofman@WeissZarett.com
> Subject: RE: In re: 89 Ralph Avenue Corp., 12-48522
>
> Ms. Felton:
> What time would you like to depose Ms. Gottsegen at my office on May
> 14? I would propose 2pm. Please let me know.
>
> Also, please send me the time and location of the Teitel deposition on

> May 15. Thank you.
> Craig D. Bloom, Esq.
> Weiss, Zarett, Brofman & Sonnenklar, P.C.
> f/k/a Weiss & Zarett, P.C.
> 3333 New Hyde Park Road, Suite 211
> New Hyde Park, New York 11042
> Phone: 516-627-7000
> Fax: 516-877-1172
> Email: cbloom@weisszarett.com
> Website: www.weisszarett.com
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> IRS Circular 230 Disclosure: Under regulations issued by the U.S.
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> purpose of (i) avoiding penalties under the Internal Revenue Code, or
> (ii) promoting, marketing or recommending the tax advice addressed
> herein to any other party.
>
>
> -----Original Message-----
> From: Regina Felton [mailto:rfeltonesq@optimum.net] Sent: Thursday,
> May 09, 2013 10:39 AM
> To: cec_hearing@nyeb.uscourts.gov
> Cc: Adam Wofse; Craig Bloom; gremesser@aol.com
> Subject: In re: 89 Ralph Avenue Corp., 12-48522
>
> Your Honor:
>
> Please see the attached letter submitted incorrectly as a motion via
> the ECF System on May 1, 2013. This is a request for an adjournment
> of the hearing and for permission to make a written submission in lieu
> thereof. Thank you.
>
> Regina Felton, Esq.

ATTACHMENT C

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X

In re:

89 RALPH AVENUE REALTY CORP.,

Debtor.

Chapter 7

Case No. 12-48522-cec

-----X

PETITIONING CREDITOR'S PROPOSED
PRE-TRIAL ORDER

TO THE HONORABLE CARLA E. CRAIG,
UNITED STATES BANKRUPTCY JUDGE:

NOW, THEREFORE, the following statements, directions and agreements are adopted as the Pre-Trial Order herein:

1. Nature of the Case. 1st Bridge, LLC ("1st Bridge" or "Petitioning Creditor") commenced this chapter 7 case by the filing of the Involuntary Petition against 89 Ralph Avenue Realty Corp. (the "Debtor") on December 18, 2012 (the "Petition Date"). The Debtor failed to timely answer and an Order for Relief was entered on January 18, 2013 (the "Order for Relief"). On February 5, 2013, the Debtor moved to dismiss this bankruptcy proceeding for lack of jurisdiction (the "Debtor's Motion"), as a result of the alleged failure of Petitioning Creditor to properly serve the Summons and Involuntary Petition on the Debtor. Petitioning Creditor opposed the Debtor's Motion by opposition dated February 12, 2013. On February 21, 2013, the Court held a hearing on the Debtor's Motion. During the hearing, the Court directed that the Debtor's Motion would be treated as a motion to vacate the Order for Relief and ordered an evidentiary hearing.

2. Jurisdiction – Venue. This proceeding was brought under 11 U.S.C. §303. This Court has jurisdiction under 28 U.S.C. §157. This is a “core proceeding” as defined in 28 U.S.C. §157(a)(2).

3. Relief Prayed. The Debtor is seeking to vacate the Order for Relief.

4. Undisputed Facts.

- a. Petitioning Creditor commenced this chapter 7 case by the filing of an involuntary bankruptcy petition (the “Involuntary Petition”) against the Debtor on December 18, 2012 (the “Petition Date”).
- b. A Summons was issued by the Clerk of the Bankruptcy Court on December 19, 2012, pursuant Bankruptcy Rule 1010.
- c. After the Debtor failed to timely respond to the Summons and Involuntary Petition, pursuant to Local Rule 1013-1, the Bankruptcy Court issued the Order for Relief on January 18, 2013.

5. Petitioning Creditor’s Contentions of Fact.

- a. The Summons and Involuntary Petition were timely served on the Debtor on December 20, 2012, by Petitioning Creditor’s counsel’s legal secretary Linda Gottsegen, under the supervision of Craig D. Bloom, Esq., pursuant to Bankruptcy Rules 1010 and 7004(b)(3), by sending the Debtor the Summons and Involuntary Petition by First Class Mail to the following two addresses: (i) 89 Ralph Avenue Realty Corp., 1401 Dean Street, Brooklyn, NY 11216, Attn: Henrietta Miller; and (ii) 89 Ralph Avenue Realty Corp., 89 Ralph Avenue, Brooklyn, NY 11221, Attn: Henrietta Miller.
- b. The First Class Mailings were never returned by the Post Office.

6. Issues of Law.

- a. Is there competent evidence submitted by the Debtor sufficient to refute the strong presumption of receipt, or the common law “mailbox rule” which states that a properly addressed envelope not returned to sender is presumed to have reached its destination at the regular time and receipt by the person to whom it was addressed?
- b. Are the affidavits of Linda Gottsegen sufficient to provide evidence of actual mailing of the Summons and Involuntary Petition?

7. Witnesses.

a. Petitioning Creditor's Witnesses

- i. Linda Gottsegen
- ii. Craig D. Bloom, Esq.
- iii. Petitioning Creditor reserves the right to call rebuttal witnesses not listed above.

8. Exhibits.

a. Petitioning Creditor's proposed additional exhibits

- i. Exhibit 1 - Involuntary Petition dated December 18, 2012
- ii. Exhibit 2 - Summons to Debtor in Involuntary Case dated December 19, 2012
- iii. Exhibit 3 - Order for Relief dated January 18, 2013
- iv. Exhibit 4 - Affidavit of Service by Linda Gottsegen dated December 20, 2012
- v. Exhibit 5 - Declaration of Craig D. Bloom dated February 12, 2013
- vi. Exhibit 6 - Supplemental Affidavit of Linda Gottsegen dated April 22, 2013
- vii. Petitioning Creditor reserves the right to submit exhibits not listed above in rebuttal.

9. Trial Counsel.

a. For Debtor:

Regina Felton, Esq.
Felton & Associates
1371 Fulton Street
Brooklyn, NY 11216

b. For Petitioning Creditor:

Michael D. Brofman, Esq.
Weiss, Zarett, Brofman & Sonnenklar, P.C.
3333 New Hyde Park Road, Suite 211
New Hyde Park, N.Y. 11042

10. Estimate of Trial Time. One-half day

11. Trial Date. May 20, 2013 at 10:00 a.m.

IS FURTHER ORDERED that the Court may in order to prevent manifest injustice or for good cause shown, at the trial of the action or prior thereto upon application of counsel for either party, made in good faith, or upon motion of the Court, modify this Pre-Trial Order upon such conditions as the Court may deem just and proper.

Dated: New Hyde Park, New York
May 17, 2013

WEISS, ZARETT,
BROFMAN & SONNENKLAR, P.C.
f/k/a WEISS & ZARETT, P.C.
Attorneys for Petitioning Creditor 1st Bridge, LLC

By: _____
Michael D. Brofman
3333 New Hyde Park Road, Suite 211
New Hyde Park, N.Y. 11042
(516) 627-7000

Dated: Brooklyn, New York
May __, 2013

CARLA E. CRAIG
Chief United States Bankruptcy Judge